

CRIMINAL APPEAL No. 329 OF 1993 (S.J.)

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Against the judgment and order, dated 10<sup>th</sup> September, 1993, passed by Sri Sohailur Rahman, Additional Sessions Judge, I, Darbhanga, in Session's Trial No. 87 of 1990/8 of 1993

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Fazlur Rahman, s/o Abdul Basit, resident of village Deoura Bandhauili, P.S. Jale, district Darbhanga .. Appellant

Versus

The State of Bihar .. Respondent

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For the appellant .. Mr. Arun Kumar Tripathi,  
Adv, Amicus curiae

For the State .. Mr. S.N. Prasad, A.P.P.

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**PRESENT**

**THE HON'BLE MR. JUSTICE GOPAL PRASAD**

**Gopal Prasad, J.** This criminal appeal is directed against the judgment and order, dated 10<sup>th</sup> September, 1993, passed by Shri Sohailur Rahman, Additional Sessions Judge, I, Darbhanga, in Session's Trial No. 87 of 1990/8 of 1993 arising out of Jale P.S. Case No. 15 of 1988 whereby and where under he has convicted the appellant for offence under Section 366 of the Penal Code and has sentenced to undergo rigorous imprisonment for four years.

2. The learned counsel for the appellant, after some arguments, presses mainly the sentence. However, from perusal of the records, it appears that the appellant has already been in jail for three and half years. It has further been contended that the matter concerns with a love affair

and further the occurrence is of the year 1988 and the appellant was convicted by the impugned judgment and order in the year 1993 and the appeal is pending since then and, hence, contended that lenient view may be taken on the sentence.

3. Having regard to the facts that the appellant has already been in jail for three and half years, during the pendency of the trial, and more over the matter concerns with an offence under Section 366 of the Penal Code, the interest of justice shall be served by modifying the sentence for the period of imprisonment already undergone by the appellant.

4. With this modification in sentence the appeal is **allowed in part.**

( Gopal Prasad, J. )

